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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
TOSHIFUMI YAMAMOTO : EXAMINER: DANIEL, JR., WILLIE J.  
SERIAL NO: 09/926,434 :  
FILED: NOVEMBER 1, 2001 : GROUP ART UNIT: 2617  
FOR: MOBILE COMMUNICATION :  
TERMINAL AND CAR MOUNTED  
ELECTRONIC DEVICE

APPEAL BRIEF

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

Appellant appeals the outstanding Final Rejection of February 15, 2007.

(I) REAL PARTY IN INTEREST

The real party in interest in the present application is the assignee, Kabushiki Kaisha Toshiba.

(II) RELATED APPEALS AND INTERFERENCES

There are no known related appeals or interferences.

(III) STATUS OF CLAIMS

Each of Claims 24, 26-28, 63, and 65 is pending, and has been rejected. Claim 66 was canceled in an Amendment filed after the filing of a Notice of Appeal. Claims 1-23, 25, 29-62, and 64 were previously canceled.

(IV) STATUS OF AMENDMENTS

An Amendment was filed on April 18, 2007, but was not entered due to changes made to Claim 66. Consequently, after the filing of the Notice of Appeal, another Amendment was filed in which Claim 66 was canceled, and the word “a” was inserted into Claim 24. Due to the cancellation of claims and a minor amendment which merely inserts the word “a,” it is believed that the Amendment after the filing of the Notice of Appeal will be entered, although the status of this Amendment was unknown at the time of the filing of the Appeal Brief.

(V) SUMMARY OF CLAIMED SUBJECT MATTER

Claim 24 is the only independent claim which is on appeal. All claims stand or fall with independent Claim 24 and arguments are presented below only with respect to Claim 24.

Claim 24 recites a mobile communication terminal connectable to a car mounted electronic device. A mobile communication terminal MS is illustrated in Figure 1 and the details of MS are illustrated in Figure 3. The car mounted device is illustrated as AS of Figure 1. P. 12, lines 10-22 describe the car mounted electronic device. The specification describes the mobile communication terminal, beginning at line 23 of p. 12.

The first element recited in independent Claim 24 after the Preamble is “a first interface for making radio communication with a mobile communication network.” The first interface corresponds to, for example, the W-CDMA Radio Circuit 21 illustrated in Figure 2 and described in the specification at p. 13, lines 7-17 and also p. 10, lines 22-24.

Claim 24 further recites “a second interface for making radio communication with the car mounted electronic device.” In Figure 2, there is illustrated a BT (BLUETOOTH) Radio Circuit 40 which is described in the specification at p. 14, lines 1-5. See also p. 10, lines 24-26.

The last element of Claim 24 is a connection control section for controlling connection to the car mounted electronic device. Such a connection control section corresponds to, for example, 11a of Figure 2 which is a BT Connection Control Function. See p. 15, lines 13-18 of the specification. The last paragraph of Claim 24 recites required functionality of the connection control section. First, there is recited that the connection control section starts a connection procedure with the car mounted electronic device by transmitting a response signal that includes attribute information of the mobile communication terminal to the car mounted electronic device. Figure 4 illustrates a communication procedure and shows the transmission by the handheld telephone set of FHS (BD-ADDR). The specification describes this transmission as the transmission of attribute information. See p. 20, lines 20-25. See also p. 21, lines 13-23.

The above-recited transmission of the attribute information is performed “when a paging signal transmitted from the car mounted electronic device to determine a presence of a mobile communication terminal within a radio area of the car mounted electronic device is detected.” The first transmission shown in Figure 4 is of an INQIRY packet, and the transmission of this packet is described at p. 21, lines 6-9 and p. 20, lines 18-19.

Additionally, the connection control section “sets communication mode in a hands-free mode automatically if the connection procedure is completed.” Such functionality is described at p. 22, lines 13-16 of the specification. (“In addition, at this time, the mobile telephone sets MS switches its own communication mode from a single mode to a hands-free mode for making communication using the car audio device AS.”)

Finally, the connection control section “disconnects the connection with the car mounted electronic device and sets the communication mode in its own communication mode if no packet, which is periodically output from the car mounted electronic device for acknowledgement of the connection, is received for a predetermined time period.” This feature is described, for example, at p. 26, line 19 - p. 27, line 21. See also p. 29, lines 11-18.

The features of Claim 24 allow a mobile communication terminal (e.g. a mobile phone) to establish radio communication with a car mounted electronic device. The claim is directed towards functionality of a connection procedure and also the automatic disconnection. The claimed invention allows automatic setting of the communication mode of the mobile communication terminal to a hands-free mode, and also provides for the disconnection and switching back to the mobile communication terminal’s own communication mode (exiting the hands-free mode) when packets have not been received.

(VI) GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Each of the outstanding prior art rejections of Claim 24 are being appealed. Thus, the Applicant seeks review of whether Claims 24, 28, and 63 are unpatentable under 35 U.S.C. § 102(e) as being anticipated by Larsson et al. (U.S.P. 6,697,638). Additionally, Applicant seeks review of whether Claims 24, 26-28, 63, and 65 are unpatentable under 35 U.S.C. § 103 over Chennakeshu et al. (U.S. 6,542,758) in view of Raith (U.S. 6,493,550) and Chen et al. (U.S. 5,751,719).

(VII) ARGUMENTS

Independent Claim 24 stands rejected under 35 U.S.C. § 102(e) as being anticipated by Larsson et al. (hereinafter “Larsson”) (U.S. 6,697,638). This rejection is being appealed.

Claim 24 is directed towards a mobile communication terminal. This mobile communication terminal may be, for example, a mobile or cellular telephone. Claim 24 recites a connection control section *of the mobile communication terminal* which disconnects the connection with an electronic device.

Larsson discloses at col. 7, lines 35-41 that control is by the car kit. Specifically, “when the car kit determines that emulation has terminated for one reason or another, e.g., the car phone does not respond, then normal communication is re-enabled.” Thus, Larsson clearly describes that the car kit performs the controlling of the termination. To the contrary, Claim 24 is directed to a mobile communication terminal. In Claim 24, it is the mobile communication terminal which performs the disconnecting, whereas in Larsson, such disconnection is performed by the car kit (e.g. a car mounted electronic device). Thus, as Larsson does not disclose or suggest a disconnection, as claimed, performed by the mobile communication terminal but the car kit does such controlling, independent Claim 24 is not

anticipated by Larsson and therefore, the rejection of Claim 24 and similarly Claims 28 and 63 must be reversed.

Independent Claim 24 (and the claims depending therefore) stands rejected under 35 U.S.C. § 103 as being unpatentable over Chennakeshu et al. (U.S. 6,542,758) in view of Raith (U.S. 6,493,550) and Chen et al. (U.S. 5,751,719). This rejection is erroneous and requested to be reversed.

The last Office Action dated February 15, 2007, acknowledges on the middle of page 7 that:

“The combination of Chennakeshu and Raith does not specifically disclose having the feature [sic] disconnects the connection with the car mounted electronic device and sets the communication mode in its own communication mode if no packet, which is periodically output from the car mounted electronic device for acknowledgement of the connection, is received for a predetermined period of time.”

However, the previous Office Action maintains that this feature is taught by Chen.

Specifically, the outstanding Office Action states:

Chen discloses the feature [sic] disconnects the connection with the car mounted electronic device and sets the communication mode in its own communication mode if no packet, which is periodically output from the car mounted electronic device for acknowledgement of the connection, is received for a predetermined time period (see col. 9, line 51 - col. 10, line 25).

Chen does not disclose the disconnection procedure recited in Claim 24. The receiving device in Chen does not have two communication modes corresponding to a hands-free mode and an own communication mode. Moreover, the receiving device does not switch over to any communication mode if the disconnection occurs during the communication. Further, the disconnection disclosed by Chen appears to disconnect due to a degradation of

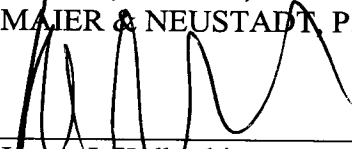
transmission quality during voice communication between a mobile phone and the base station.

Based on the above, the reviewed feature is admitted to be missing from Chennakeshu and Raith, and Chen does not disclose or suggest this limitation. Thus, even if the three patents were combined in the manner suggested by the Examiner, the claimed invention could not result because there is a missing element.

Accordingly, the rejection under 35 U.S.C. § 103 of Claim 24 and each of the pending claims is respectfully requested to be reversed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
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(VIII) CLAIM APPENDIX

1-23: (Canceled)

24: A mobile communication terminal connectable to a car mounted electronic device, the mobile communication terminal comprising:

a first interface for making radio communication with a mobile communication network;

a second interface for making radio communication with the car mounted electronic device; and

a connection control section for controlling connection to the car mounted electronic device;

wherein the connection control section starts a connection procedure with the car mounted electronic device by transmitting a response signal that includes attribute information of the mobile communication terminal to the car mounted electronic device when a paging signal transmitted from the car mounted electronic device to determine a presence of a mobile communication terminal within a radio area of the car mounted electronic device is detected, and sets communication mode in a hands-free mode automatically if the connection procedure is completed, disconnects the connection with the car mounted electronic device and sets the communication mode in its own communication mode if no packet, which is periodically output from the car mounted electronic device for acknowledgement of the connection, is received for a predetermined time period.

25: (Canceled)

26: The mobile communication terminal according to claim 24, further comprising an information transfer control section for transferring an incoming call to the car mounted electronic device via the second interface when the incoming call is received from the mobile communication network via the first interface.

27: The mobile communication terminal according to claim 24, further comprising an information transfer control section configured to transfer an outgoing call to the mobile communication network via the first interface when the outgoing call is received from the car mounted electronic device via the second interface.

28: The mobile communication terminal according to claim 24, wherein the connection control section transmits an authentication code to the car mounted electronic device in the connection procedure via the second interface.

29-62: (Canceled)

63: The mobile communication terminal according to Claim 28, wherein the connection control section transmits address information identifying the mobile communication terminal in the connection procedure.

64: (Canceled)

65: The mobile communication terminal according to Claim 24, further comprising a timer which is reset in case that the packet from the car mounted electronic devices is

received, and the connection control section disconnects the connection with the car mounted electronic device if the timer exceeds a predetermined value.

66: (Canceled)